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## The Non-Monetary Value of Reparations Rhetoric

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6 Afr.-Am. L. & Pol'y Rep. 21-25 (2004)

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# GEORGETOWN LAW

## Faculty Publications



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# The Non-Monetary Value of Reparations Rhetoric

Emma Coleman Jordan\*

Even among the grizzly archives of lynching and racial violence following the Civil War, some stories stand out. New Year's Day, 1923, marked the beginning of a six-day racial rampage that wiped out the homes of thirty black families living in the small, gulf coast town of Rosewood, Florida.<sup>1</sup> Minnie Nitemy was nine years old, and her cousin, Ruth Davis, eight years old, when a mob of white men organized into a vigilante band and descended upon the all-black town to "kill everyone they ran across."<sup>2</sup>

One disputed story sparked this orgy of racial violence and lynching. Twenty-two-year-old Francis Taylor told her husband that a black intruder assaulted her while her husband was at work. A laundress who worked in the Taylor household now says that a white man with whom Taylor had an affair inflicted Taylor's bruises.<sup>3</sup> The accusations spread like wildfire to the mill where Taylor's husband worked. Soon, the sheriff (with a pack of bloodhounds) and a posse of white metal workers decided that Jesse Hunter, a black escaped convict, was the culprit.

The metal workers swarmed on Rosewood to work their revenge. They overwhelmed the sheriff and took control of a man whom they suspected of providing a safe harbor to the accused convict Hunter (whom they could not find). They shot the suspected accomplice and cascaded his body in front of the home of one of Rosewood's most self-confident black men. Minnie remembers that her grandmother and her husband "were out there in the front yard, and them crackers was coming right down the railroad just as far as you could see something—just as far as you could look down that railroad. You could see them: old, big, white hats on horseback."<sup>4</sup>

The false rumor unleashed a fireball of racial hatred. Over the course of

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1. See, e.g., MICHAEL D'ORSO, *LIKE JUDGMENT DAY: MURDER AND REDEMPTION IN A TOWN CALLED ROSEWOOD* (1996); MAXINE D. JONES, *A DOCUMENTED HISTORY OF THE INCIDENT WHICH OCCURRED AT ROSEWOOD, FLORIDA, IN JANUARY 1923* (1993).

2. Interview with Minnie Nitemy (on file with author).

3. See D'ORSO, *supra* note 1.

4. Nitemy, *supra* note 2.

six days, women and children were forced to hide while the posse set fire to buildings. The size of the mob swelled throughout the week as word spread to the town of Clampson and other locations intent on a racial massacre. They came from as far away as Georgia. Minnie Nitemy recalled that days after the riots began, "They were hunting for us. Anybody they saw in the woods, they just shot them down."<sup>5</sup> A partially paralyzed black man received no sympathy from the mob. He was shot and dumped into a grave that he was forced to dig. In the end, eight people, including six Blacks and two Whites, died in the sweep of unchecked racial violence.

There was no police protection for the town. Despite repeated requests, the governor failed to send state troopers. White participants took grisly souvenirs. Robin Ratis, a newspaper editor, saw "penises, testicles, fingers, even toes kept in mason jars and showed off for Whites."<sup>6</sup> Ratis said, "You name it, they jarred it."<sup>7</sup> Ratis, one of the only witnesses who spoke out, received death threats for her reports about Rosewood. Until John Singleton, a black film director, discovered the story and committed it to film,<sup>8</sup> a veil of silence obscured the massacre for seventy years.

The town was completely destroyed, burned to the ground. Only one structure remained—a house that was also a white-owned shop. A plaque with the town's name is all that identifies the area that was once Rosewood. The town simply disappeared from consciousness. Many Whites who were not direct participants rejected the notion that these events occurred at all. They claimed this incident was simply a figment of black exaggeration and hysteria. Aggressive silence and denial emerged where black Rosewood had once been. For different reasons, Blacks too kept silent about the murderous rampage. According to black Rosewood survivor Robbie Martin, "We weren't allowed to talk about Rosewood. I guess my grandmother had the feeling that they would come after us. She didn't want us to ever mention that we had ever lived in Rosewood."<sup>9</sup>

The story of Rosewood is a story of racial violence and destruction with profound lessons. In 1994, the Florida legislature awarded two million dollars in compensation to the nine Rosewood survivors, and to the descendants of those who suffered property damage in the massacre.<sup>10</sup> This is the only case in which a state awarded compensation for racial violence and state inaction in the face of mob rule. In 1993, when the Florida legislature considered the Rosewood Compensation Act, many Whites opposed the effort. It appeared to

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5. *Id.*

6. Interview with Robin Ratis (on file with author).

7. *Id.*

8. ROSEWOOD (Warner Bros. 1997). A CBS 60 Minutes story also focused attention on Rosewood.

9. Interview with Robbie Martin (on file with author).

10. The Rosewood Compensation Act, 1994 Fla. Sess. Law Serv. ch. 94-359 (West).

many that asking the question, "What happened in Rosewood?" would stir up new racial hatred and spark further rage. They feared that the inquiry would expose the barbaric acts that took place, and that these things were just better forgotten—that the mason jars with human parts should never be mentioned.

The story of Rosewood contains all the elements of reconciliation for Blacks and Whites in America. Verification and acknowledgement allowed the seventy-year secret of the lynching rampage to heal. The adoption of a commission of inquiry required historians to meticulously document and reconstruct the facts. The reparations movement faces the reality that, in America, we cannot remember yesterday—let alone a hundred years ago.

When the task is especially distasteful and unpleasant—when it challenges one's sense of entitlement today—the incentives to forget are enormous. Consequently, we work in a climate of ahistoricism and aggressive denial. This is the reality that we must confront. These complex, dark secrets of the American family—the dysfunctional family—have been processed very differently by African Americans and White Americans. The official story of America contends that first, there was slavery, then the Civil War, then freedom (followed by a short period of Jim Crow) and, the next thing we know, there is affirmative action and welfare. That is the story of Blacks in America. Right? No.

The real story is more complex. African Americans remember the story of racial violence and lynching. African Americans remember both the story and the legacy of slavery. For us, there is a connection between the past and our circumstances today. This complex secret is something that must be unearthed. While Whites repress this memory, African Americans remember it. We make the connection between the disparate wealth, residential segregation, and problems in the segregated school system. I use the Rosewood story because it is emblematic.

Whites used racial violence for geographic reconfiguration of black populations. We began our journey in the United States in the South. In research for a book, I spoke with Jacob Lawrence, whose paintings, *The Migration Series*, captured my attention.<sup>11</sup> Two panels in particular stood out. The first shows a man sitting by the side of a river with a branch over his head.<sup>12</sup> The subtext in the version that I saw, written by Jacob Lawrence, says,

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11. See JACOB LAWRENCE ET AL., JACOB LAWRENCE: THE MIGRATION SERIES (Elizabeth Hutton Turner ed., 1993) (containing all sixty panels in the series); see also *The Great Migration: A Story in Paintings* by Jacob Lawrence, available at <http://www.columbia.edu/itc/history/odonnell/w1010/edit/migration/migration.html>. Lawrence's series depicts northern African-American migration between 1916 and 1919. The New York Museum of Modern Art now houses these paintings.

12. LAWRENCE ET AL., *supra* note 11; *The Great Migration*, at <http://www.columbia.edu/itc/history/odonnell/w1010/edit/migration/migration.html> (Part I Panel 15).

“When there were lynchings, Blacks left the [S]outh.”<sup>13</sup> The second panel shows two black men with their backs to the artist, huddled in submission before an oversized judicial bench, as a white judge faces them.<sup>14</sup> I thought, “He’s got something here.” This image depicted lynching contrasted and compared to formal justice.

I have several comments to offer on the subject of reparations. Reparations is not a single idea. The forty acres and a mule that General Sherman promised to the slaves<sup>15</sup> was the beginning of the idea of reparations in America, but not the end. Reparations is a multi-part idea; until we get that straight, we are vulnerable to the feeling that we are lost again. There are at least three arenas in which the reparations issue may be contested.

One is the political arena. In the arena of legislation and political maneuvering, bills must be submitted for majoritarian acceptance. It is no surprise that the current reparations bill<sup>16</sup> has not gained the majority acceptance necessary for success. Thus, success in the political arena requires personal and collective political activism.

The second arena is legal. In this arena those wronged can bring lawsuits. There is a coalition currently working on these lawsuits.<sup>17</sup> As a lawyer, I must confess that the legal arena is probably less promising than the political arena. Although several legal precedents serve as barriers standing in the way of success in the courts, lawsuits are not, however, without value. One must simply understand their limited value.

Lawsuits create the platform for the third, most important and powerful arena: the intellectual challenge to the history of racism. This arena allows us to challenge, to document, to read alternative stories, and to give those stories to our children—stories that help reposition Blacks from economic parasites to economic contributors unfairly deprived of their wealth. The intellectual arena provides an important strategic difference. When we address tired debates such as whether affirmative action is reverse discrimination, a different perspective emerges; reparations offers that positioning. Reparations as an intellectual project is most promising because it engages us all and gives us an opportunity to challenge the idea of racism—to challenge it as an idea that governs the way goods are distributed in society.

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13. See LAWRENCE, *supra* note 11.

14. The Great Migration, at <http://www.columbia.edu/itc/history/odonnell/w1010/edit/migration/migration.html> (Part I Panel 14).

15. See William T. Sherman, Special Field Order No. 15 (Jan. 16, 1865), reprinted in COMMISSION FOR POSITIVE EDUCATION, THE FORTY ACRES DOCUMENTS: WHAT DID THE UNITED STATES REALLY PROMISE THE PEOPLE FREED FROM SLAVERY? (1994).

16. Representative John Conyers, Jr. has introduced a bill to establish a commission examining slavery. See H.R. 40, 107th Cong. (2001).

17. See RANDALL ROBINSON, THE DEBT: WHAT AMERICA OWES TO BLACKS and THE RECKONING: WHAT BLACKS OWE EACH OTHER (referencing the work of the Reparations Coordinating Committee).

Within the intellectual project, there are two different approaches. Under one approach, reparations provides compensation. As a liberated claim, when you succeed with reparations, there will be payment. Although the compensatory model is a workable model, it is still inadequate. The second model is more integrated and more ambitious. It is what I call the transformative model of reparations. In this model, the challenge is to add to the intellectual history of racism, and defy the definition of self that is a large part of the continuing psychic injury. This project first requires us to report and document injury. The difficult work of archival history is indispensable. It is important, difficult, dusty, and meticulous work.

The denial will be pervasive. I am not foolish enough to think that simply exposing historical facts will change the heart and mind of America. But, it certainly will not change without that part of the effort. We must do the work to get the record clear about what happened in the past. Many say, "I wasn't there. I don't know anything about it. I didn't own any slaves, and I don't know anybody who owned any slaves. I didn't lynch anybody, and I don't know anybody who lynched anybody." If we looked in some family attics, we might find that the last proposition is not entirely true. But, historians have failed us. They have not looked in the family attic to find these documents. That is our work—we can and must find these documents. The transformative project requires us to record the injury—to make visible white privilege. We cannot beat something with nothing. We must develop a history that makes visible the things that are invisible.

The second part of the transformative project is the promotion of healing. It is not just about placing blame on Whites. The project involves internal healing. We must address the psychic, economic, social, sub-definitional injuries that we have sustained and currently sustain. These intra-psychic wounds have manifested themselves in the black family and between black men and women for generations. These psychic wounds are issues to which we must attend.

Finally, we must challenge the intellectual history of racism, and create an alternative. I hope my work on lynching will create that alternative history—to take those dead, buried, dusty facts, breathe new life into them, and deploy them in the service of a reconstruction and transformation of the idea of race in America.

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**PART 2:**

**LESSONS FROM OTHER  
REPARATIONS MOVEMENTS**

